

# **Status Report: Programmatic Subcommittee Work on Drainage Maintenance Activities**

March 2004 Transportation Permit Efficiency and Accountability Committee

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Reviewed by: Programmatic Subcommittee

## **Why are we here today?**

We are here to present a status report on the Programmatic Subcommittee's effort to develop multi-agency programmatic coverage for drainage maintenance work for the Washington State Department of Transportation and other jurisdictions.

## **Where are we now?**

The Programmatic Subcommittee sent out a 2<sup>nd</sup> draft Unified Conditions document for review and comment in January 2004. This document identified activity descriptions and conditions for the following activities:

- Channelized Stream Maintenance
- Fish Way Maintenance
- Culvert Maintenance and Repair
- Culvert Replacement in non-fish bearing streams

### **Status of Programmatic Products:**

- Send out 3<sup>rd</sup> and Final Draft Unified Conditions for review and comment by March 2004.
- Anticipated for May 2004 -
  - WDFW to issue 5 year General HPA's.
  - Corps to issue policy guidance for exempt activities from a Nationwide Permit.
  - Ecology revise Water Quality Implementing Agreement (WQIA)

On March 10<sup>th</sup> the subcommittee convened to discuss the comments received and has been actively resolving the following significant concerns::

### **Policy Related Concerns:**

- Unified Conditions may raise the standard for individual permits – Field staff expressed concern that the Unified Conditions would become the new standard (e.g. 50 cubic yard threshold and by-pass requirement) for the issuance of individual permits. The programmatic subcommittee responded that a conservative approach in developing programmatic standards ensures adequate environmental protection statewide. The issuance of individual permits remains a viable option if site specific conditions warrant different permit provisions.
- The change in Corps jurisdictional thresholds regarding fish ways and ditches/channels – Recent federal court decisions have resulted in a changed threshold for the Corps jurisdiction and permit requirements for ditches and channelized streams. The programmatic subcommittee is working closely with the Corps to identify the procedures and jurisdictional thresholds as they apply to drainage activities.

### **Implementation/Technical Concerns:**

- Clarifying the difference between ditches and channels –Prior to this programmatic, a clear distinction between ditches and channels had not been well articulated. (Ecology, WDFW and the Corps have different jurisdictional thresholds for channelized streams that are, related to water quality, wetlands, and waters of the state.) The resource agencies are working with WSDOT field staff to clarify and resolve concerns related to the regulation of channelized streams as waters of the state.

- 50 cubic yard issue – Field staff raised concerns that a 50 cubic yard limitation for sediment removal per project was too restrictive for channel and culvert maintenance activities. Upon review of existing environmental policies, this concern was addressed and resolved at a recent WSDOT Regional Maintenance Environmental Coordinators meeting. In cases where the threshold is not adequate, staff will seek an individual permit. As part of the reporting requirements for the Unified Conditions, this issue can be revisited over time.
- Bypass issue – Field staff raised concerns that the requirement to employ temporary by-pass measures for all in-water work was new and might raise the bar for all future projects at the state and local levels. The WSDOT Regional Maintenance Environmental Coordinators also addressed this issue and agreed that by-passing flowing streams around work areas is a widely accepted, and employed Best Management Practice for protection of water quality and fish life. This is further supported in the recently adopted Regional Road Maintenance ESA 4d guidelines. Individual permits remain a viable option if site-specific conditions warrant different permit provisions.
- Solid waste condition –The subcommittee is working to establish consistency between the Unified Conditions Programmatic and WAC 173-350, which regulates solid waste, including the use and reuse of soils that are part of maintenance activities.

### **Next Steps**

- The subcommittee has scheduled two meetings in March to incorporate comments into a final 3<sup>rd</sup> Draft document. The 3<sup>rd</sup> Draft is expected to be sent out for review and comment at the end of March. The subcommittee also expects to finalize the Unified Conditions by the end of April 2004.
- Permit agencies anticipate issuing programmatic permit coverage for activities covered in the Agreement by May 2004. For example, WDFW expects to issue a general HPA permit for each of the four activity categories. Ecology expects to revise the Water Quality Implementing Agreement. The Corps expects to establish regulatory guidance to clarify that the majority of these activities are exempt from a Nationwide Permit.